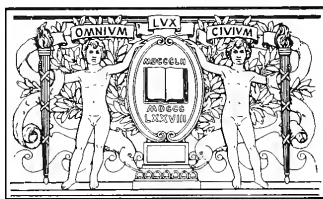


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COMMISSIONERS:

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FREDERICK R. H. WITHERBY, Esq.
BARBARA CHENEY
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GEORGE HUGGINS

August 30, 1979

On April 5, 1979 the Finance Commission voted:

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To conduct an investigation of the administration, powers and duties of the Election Commission as they relate to the selection of election officers, the preparation of ballots, the posting and publishing of lists of candidates, the furnishing of places for voting, the care of ballot boxes, the registration of voters, the method of enforcement of voting regulations, the determination of the results of elections and all other matters relating to elections in the City of Boston.

The purpose of this investigation was twofold: first, to determine the competency of the Election Commission to conduct elections in the City and to ascertain the effectiveness of the election process, and second, to review the manner in which the Department is administered.

Our investigation has resulted in a number of specific findings which are outlined below, but two principal conclusions which result from our review, merit special consideration. First, and of foremost concern to the Finance Commission, was its evaluation of the integrity of the election process. We are glad to report that we could find no abuses in that process. However, there is a pressing need to tighten up certain administrative procedures which, at the present time, leave room for abuse. The Finance Commission also found that the Departmental budget is consistently overspent, overtime is excessive and poorly administered, personnel policies are inadequate and the general management of the Department is loosely structured. The principal reason for these failures is the lack of direction provided by the four-member Election Commission. The following is a summary of our findings:

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1. The Election Department lacks effective management because the Commissioners have ignored their administrative duties delegating them instead to the Chairman, John Robinson, who has not been an effective administrator.
2. Personnel administration in the Election Department has been mis-managed causing the Department to exceed its budgetary appropriation, utilize excessive overtime and allow improper personnel policies.
3. Although we found no abuses in the election process, there is a need to tighten certain administrative procedures, which, at the present time present the potential for voting abuses.
4. The provisions of MGL Ch. 54 s. 24 as well as the policies of the Election Commission relative to changing polling locations must be amended to prevent changes from being made for political purposes.

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BACKGROUND

The Election Commission is responsible for the operation of the Election Department. The Commission is comprised of four members, each of whom must be a registered voter in the City of Boston for three years and is appointed by the Mayor for a term of four years. The Commission, by statute, must be selected so that two members belong to each of the two leading political parties in the City. One member is designated as Chairman by the Mayor but each member has an equal vote in the affairs of the Commission. In the past, the Commission was a part-time body but an ordinance passed in 1968 created full-time status for the members. The present makeup of the Commission is as follows:

<u>Member</u>	<u>Term Expires</u>
John M. Robinson - Republican (Chairman)	March 31, 1977
Michael A. Joyce - Democrat	March 31, 1982
Joseph W. Fitzgerald - Republican	March 31, 1971
Eugene Hillis - Democrat	March 31, 1980

As is the case with most boards and commissioners in the City, the Election Commission faces a holdover situation. Both of the Republican members are holdovers. The significance of the holdover status is difficult to determine, although we note that neither Robinson nor Fitzgerald work full-time (they are in a holdover status) and both Joyce and Hillis are present on a full-time basis.

The Election Commission has a number of duties and responsibilities. It conducts all Federal, State, County and Municipal elections in the City. It also establishes and maintains the voter and jury lists and verifies signatures on nomination papers, and initiative and referendum petitions which apply to the city.

The Finance Commission discussed the role of the Election Commission with each of the current members of the Commission as well as two former members. We found that the basic reason for the lack of effective management is that the Election Commission has simply failed to address the issue of managing the Department. Although all four Commissioners are meant to be full-time, there has been no effort on their part toward instituting sound management policies which are desperately lacking.

The result has been years of operation without effective leadership causing an erosion of any semblance of what management guidelines may previously have been in place. Recently, Commissioner Joyce has attempted to involve himself in implementing change but has received only minimal support.

By statute, each Commissioner has the same powers and duties, however, the Commission does not operate in a manner so as to afford every member equal weight. John Robinson was appointed Chairman of the Commission by Mayor White in June of 1976, shortly after his initial appointment in February of that year. As Chairman, Robinson earns \$25,000 (the other members receive \$20,000) annually and acts as the Department Head, but this has been a self-assumed position. Robinson testified before the Finance Commission as to his position as Chairman and how he perceives his role and responsibilities in relationship to his colleagues:

Question: Could you briefly describe to us what your duties are as Chairman of the Election Commission?

Robinson: Well, I'm the appointing officer for one thing, making all promotions. I do whatever hiring is done and eventually whatever firing may be necessary. [I] oversee the operations of the supervisors who run the various operations - supervise elections, executive secretary, the other supervisory people in the office who have the day-to-day responsibility of deciding what work is going to be done, who is assigned to do the work and so forth and so on. I oversee the operation of the chief machine custodian whose responsibility is to keep the automatic voting machines in repair and see that they get the voting locations properly set up and ready for election day.

Robinson testified that he made the appointments to the staff and that although the other Commissioners may be consulted, he had the final say. Robinson later qualified that position by saying that, concerning personnel decisions, he had been authorized to conduct interviews but that all hiring was done by the full Commission. Our review of personnel matters, however, indicates that Robinson was never delegated authority on such matters and that he has employed whoever has been referred to him from John E. Murphy, Jr., Supervisor of Personnel. But in any event, Robinson described himself as the Department Head assuming more responsibility and authority

than his fellow Commissioners.

We asked the other Commissioners how they perceive their roles and what distinction exists between them as Commissioners and Robinson as Chairman. Joseph W. Fitzgerald, who has been a member of the Commission since April 26, 1967, but who has been a holdover since 1971, answered that although Robinson is the Administrative Head of the Department, the only difference in duties is that Robinson has been delegated the responsibility to conduct initial interviews when the Commission is involved in hiring personnel.¹ However, that explanation is not consistent with reality. Mr. Fitzgerald has not been in good health recently and works only about half a day. In addition, he has no specific duties other than to be available and he does not participate in the administration of the Department. Undoubtedly his holdover status has restricted his freedom to be more active in administrative matters.

Commissioner Hillis was only recently appointed (July 20, 1979). However, he had been employed by the Election Department for eleven years and is well aware of the functions required of the Department. Hillis works full-time and is certainly aware that his vote is the equal of his fellow Commissioners. However, his answer concerning the distinction in the roles of the Commissioners is interesting and indicates that there is little doubt in his mind as to who is the Administrative Head of the Department. The following is an excerpt from Hillis' testimony:

Question: What is the distinction of the roles of the Commissioners?

Hillis: Well, of course the Chairman recommends and we vote or the whole board votes on whatever he recommends.

Question: What about the personnel function of the Department? Who should be in charge of personnel?

Hillis: Well, almost everything comes through the Chairman.

¹In the past Fitzgerald has not been outspoken but was and still is knowledgeable about departmental affairs.

Question: Through the Chairman and not the other Commissioners?

Hillis: Well, if it's recommended, whatever is recommended by the Chairman. Almost everything is voted on by the full board anyway.

Question: Do personnel decisions have to be recommended only by the Chairman? Why couldn't another Commissioner recommend whatever it happens to be?

Hillis: It's the Chairman's duties, I believe.

Although Hillis has only recently been appointed as a Commissioner and certainly should not be expected to have a thorough understanding of departmental administration, his answer is revealing. As a former employee, his response was undoubtedly based, in part, on his years of observing how the Commission functions.

Commissioner Joyce is also a relatively new appointee, having been named to the position on April 18, 1979. Joyce has worked at the job on a full-time basis and has also taken an active administrative role in departmental affairs. He is the only member who views the role of Commissioner in its proper perspective, although it is apparent that his explanation of his role and the manner in which he acts are not consistent. The following is his description:

Question: How do you see the difference in the roles of the Chairman and the Commissioners?

Joyce: Well, I think it's a matter of semantics. The Chairman to me is the titular Head of the Department. Somebody has to be the Head of the Department. If you had calls coming from any one agency or any one person, I think they should be directed in one direction, namely the Chairman of the Board. I see him as the person who signs the payrolls, John Robinson, Chairman of the Board, or signs any type of correspondence coming out of here, for the Board. I think it's more of a titular role than anything else.

We discussed the role of the Commission with two former members who had both resigned this Spring. William McDermott, a member from December, 1973 until April, 1979, explained that the Chairman did assume administrative and personnel responsibilities and that had been the case since he was first appointed. He admitted that there was no administrative structure, only a process that had somehow evolved,

possibly from some previous Commission vote, resulting in the Chairman becoming the Administrative Head of the Department. McDermott remembered being aware of most personnel and other administrative matters but not through any structured policy of the Department, more through happenstance. Mary Lou (Gens) Greene, a member from October 1977 until April 1979, explained that the Chairman would conduct much of the preliminary work in any matter but that all decisions were made by the board.

The Finance Commission finds that the administrative problems faced by the Election Department directly result from the lack of effective leadership from the Commission. The Commissioners have not ensured that the Department is administered properly. As has been described, the perception is that the Chairman assumes a more responsible role than his fellow Commissioners and they have allowed him that responsibility. Each of the present Commissioners, as well as two former members, explained that Robinson, as Chairman, had been delegated certain responsibilities. Principal among them was his responsibility to interview perspective employees. However, there is no vote to indicate that such was the case in any minutes of meetings of the Election Department.

Not only has the Election Department been poorly administered, it has been used, especially in the past year and one half, as an agency to employ people sent down by the Supervisor of Personnel, John E. Murphy, Jr. When Murphy finds it necessary, for whatever reason, to put somebody on the payroll, he sends that person to see Robinson and the task is done. Robinson is in a precarious position because of his holdover status and regardless of his budgetary situation he has been unable to say "no". The other Commissioners, although they would not testify to the fact, are well aware of what is happening and have done nothing to prevent the Department from being used in that manner. The existing situation has resulted in budgetary excesses, personnel abuses and a very loose administration of the Department. The Commission simply has not attempted to conduct its affairs in a responsible manner and has allowed itself to be saddled with additional problems by employing many more people than it has been

authorized to employ. In addition, although we recognize that the Department could function well with only one active Commissioner, Robinson is unfamiliar with even the most basic departmental responsibilities and is not an able administrator.

We asked Robinson how he functions as Chairman and on whose advice he relies when he makes his decisions. Robinson responded that he is indeed the Department Head, but that, "I never make a move down here without consulting Jack McElligott because he's very knowledgeable and he keeps you out of trouble." McElligott is the Executive Secretary to the Commission and has been employed by the Department for thirteen years. Without question, McElligott is as knowledgeable as anyone concerning the various departmental duties but there are differences of opinions as to his duties and degree of consultation that he provides to the Board.

In fiscal 1979, the Election Department budget was overspent by \$349,786. McElligott testified that he prepared the budget and explained to the Commissioners that it was underfunded and that the Board might need to submit a supplemental budget. He added that despite his suggestion, the Board decided not to submit a supplemental budget and that as the fiscal year transpired there was no formal discussion of possible resolutions to the Department's budgetary shortages. He explained that other than reiterating his opinion that the budget was underfunded, he made no effort to advise the Commission of potential problems even though employees were continually added to the payroll during the year, furthering the budget deficit. McElligott testified that he had no input into hiring practices and made no effort to caution the Commission, Robinson specifically, about the consequences of uncontrolled hiring. Two of the other Commissioners at that time explained the budgetary problems in a different way. Mary Lou (Gens) Greene testified that she was aware of the budgetary deficits and that solutions had been discussed, but she could not recall any possible solutions. She pointed out that McElligott, because of his knowledge and familiarity with office matters, was a "clearinghouse" for any ideas or policy matters which arose but that the Board made the decisions. William McDermott too, was well aware of budget deficits and explained that the only way to reduce expenditures

would have been to cut back on employees.

The administrative failures on the part of the Commission, especially Robinson, have been compounded by the unusual relationship between the Board and its Executive Secretary. Robinson depends on McElligott for the knowledge that he himself should have but lacks. McElligott, for his part, has attempted to create a position for himself that would provide him with duties, responsibilities and lines of authority that don't exist. McElligott provided us with his own version of his position description which encompassed almost every function of the Department, most of which are not his responsibility. As is apparent in the organizational chart of the Department (Exhibit #1) McElligott is responsible only to the Commission. We questioned Commissioner Joyce about McElligott's role and asked him for a copy of the position description. The description provided to us by Joyce (which we have verified as being accurate with the State Division of Personnel) is quite different from the one McElligott submitted. McElligott has, because the Commission has failed to, assumed responsibilities that are not his and is reluctant to let them go. This situation has contributed to the administrative difficulties encountered by the Department.

The Election Department has overspent its budget consistently over the years. In fiscal 1979, it had a budget of \$903,826 and spent \$1,253,612 with unliquidated encumbrances of \$6,437. In addition, the Listing Board had a \$200,000 budget, which also was overspent by \$1,887.¹

We asked Robinson why the budget was overspent. Robinson answered as follows:

I think if you reviewed the record when I was here last time, I said and I'll repeat again that the budget system is unfair to my Department. I don't know how it is in any other Department, and I don't give a damn, but if it costs us \$200,000 to do the listing in that range for the last three years and we put that amount in a subsequent years' budget, \$200,000 and our budget department cuts it to \$120,000 then I ought to be indicted for misspending \$100,000 because it is impossible for us to do the listing for under \$200,000. We have a list of the hours that we pay the traffic supervisors, the number of

¹The Listing Board is comprised of the Police Commissioner and each of the Election Commissioner. It is to compile an annual list of persons residing in the City of Boston age 17 and over.

hours that is required to do the job and on that basis we come up with a figure and they arbitrarily cut that by \$100,000 or whatever and put in \$120,000, and we sit across the table and I say, 'listen we cannot do the listing at that rate, if you can't give us the money it takes to do it, give it back to the Police Department, the Police Department won't take it, they spend much more than that.' Now, I start off with my hands tied behind my back. It is impossible to live within that budget. Now I have the choice of violating either my budgetary requirements or violating the law and not having an election and I got to violate the budget because I don't have any choice. It's as simple as that.

A look at the budget explains that the problem was different from that explained by Robinson. The requested budget for the Listing Board was \$240,712 and they were allowed \$200,000. The listing function was performed for \$201, 887 which is very close to the budgeted figure. However, the Election Department budget itself was quite different. The Department requested \$1,222,829; it received \$903,826 and expended \$1,253,612. The reason the budget was overspent was because the personnel account was grossly overspent. It is worth nothing that all other accounts were kept within the budget.

Although there are mechanisms in the city structure to prevent budgets from being overexpended, they were not implemented. Section 16 of the City Charter prevents city officials from expending money in excess of an appropriation. There are statutory provisions requiring the auditor to prevent budgetary excesses and there are reviews of expenditures by the budget office to ensure compliance with one's budget. However, despite the existence of monthly encumbrances and balance sheets, none of the supposed checks prevented the Election Department from spending in excess of its appropriation. A look at the encumbrance sheets indicates that as far back as last September, it was obvious the budget was being exceeded. Yet nothing was done. It wasn't until May 31, 1979 that Supervisor of Budgets, William P. McNeill, notified the Department that some changes were necessary (See Exhibit #2) McNeill said that the 1980 budget made no provision for principal clerks and stenographers and that those people occupying the positions should be terminated. He also advised that the Election Department was over its personnel quota (39 positions). However, as of August 14, 1979 the Department payroll was at 67 persons, 28 over its quota.

Other personnel abuses are numerous but fall basically within the following categories:

- 1) Increasing employees pay by way of upgrading and changes in job title;
- 2) Excessive overtime;
- 3) Poor hiring practices.

The following chart compares the personnel carried on the Election Department budget over the past 15 months and the weekly payroll costs:

<u>Position</u>	<u>Title</u>	<u>Week Ending</u> 4-11-78	<u>Week Ending</u> 8-8-78	<u>Week Ending</u> 1-3-79	<u>Week Ending</u> 4-17-79	<u>Week Ending</u> 8-14-79
Assistant Registrar of Voters		14	31	28	28	28
Senior	" " "	8	8	8	8	8
Principal	" " "	2	2	2	2	4
Head	" " "	1	1	1	1	1
Assistant Registrar of Voters	Ballot Box Repairman	1	1	1	1	1
Pr. Clerk	Stenographer	3	4	9	16	9
Head Admin. Clerk		1	1	1	1	1
Admin. Assistant		1	1	1	1	1
Assistant Exec. Secretary		1	1	1	1	1
Executive Secretary		1	1	1	1	1
Voting Machines Custodians		5	5	5	5	5
Chief	" "	1	1	1	1	1
Coord.-Voting Machines		0	0	0	0	1
Working Forman/Maintenance Man - Carpenter		1	1	1	1	1
Supervisor of Elections		1	1	1	1	1
Election Commissioner		<u>4</u>	<u>4</u>	<u>4</u>	<u>4</u>	<u>4</u>
TOTAL		45	62	66	72	67

The bulk of the Department's work is performed by the Registrars of Voters. They are the only employees who can perform all the necessary departmental tasks because by law, only they can register people to vote and verify nomination signatures. It is inconceivable to the Finance Commission that Chairman Robinson, after three and one half years as a Commissioner was unaware of that fact. During his testimony Robinson was asked about the difference in the duties of Assistant Registrars of Voters and Principal Clerk Stenographers. Robinson responded:

As far as I know the only difference between Assistant Registrar of Voters and Principal Clerk Stenographers is that the Assistant Registrar of Voters must have been registered in a party for three years and must be a resident of Boston. Sometimes people are sent down from Personnel - have not been in a party for three years. If I choose to hire that person the only way is at a lesser salary rate as a Principal Clerk Stenographer, but there's no distinction between the duties that person may be required to do and the duties of an Assistant Registrar of Voters.

We specifically asked Robinson if a Principal Clerk Stenographer could register anybody to vote. He answered that they could.

Since being appointed Chairman, Robinson has assumed the responsibility of hiring new employees. He explained how that process works.

Question: The qualifications of being registered in a party for three years and being a Boston resident. When you say someone must be registered in a party for three years - is that either Democrat or Republican?

Robinson: Yes, that's right.

Question: So a communication like this [letter introducing a prospective employee to Robinson] from Mr. Murphy was initiated by Mr. Murphy?

Robinson: Yes.

Question: It wasn't at your request?

Robinson: No.

Question: Is that always the case?

Robinson: No. I've hired some people down here. But I still have everybody go to Murphy to get the OK. Let's backtrack a little bit - what they usually do - somebody from Personnel will call me. If they're interviewing they'll call me and say, 'so you have any vacancies?' I might say, 'well I don't have any vacancies.' I never have

any vacancies because I'm always over my budget, because the budget is screwed up anyway, but if I need help I will say, 'I can use two or three people.' Then if they have somebody they will send somebody down. There have been times when I haven't requested any help and they have sent people down and if I can use that person I will go out and ask one of the supervisors, 'can you use some extra help?' If the supervisor says, 'yes,' I depend on the supervisor's judgment. If the supervisor says, 'well I don't have any now but next week we have something coming, we're going to have this, we're going to have that,' then I will say - I will tell this person who brings that letter down, 'I can't hire you today but come back next Tuesday and we'll have something for you.' That is the procedure. If there's no hard and fast rule, it depends upon whether we need the person - we need the hands or we don't.

Question: Do they have to have any skills to meet the job title of the position of Principal Clerk Stenographer - do they have to be able to take typing and dictation, for example?

Robinson: It's always helpful, but you don't ever find it.

Obviously such a policy is not conducive to building an effective and efficient staff. People are employed not through need but through patronage and although there are enough employees to perform the necessary work, there are not enough qualified employees. Individuals appointed as Principal Clerk Stenographers occupy those positions until they qualify to become Assistant Registrars. Commissioner Joyce explained:

As those employees in question, the Principal Clerks, get their three years with the party, we automatically make them Assistant Registrars of Voters to allow them to complete a full range of activities and it's safe to say that we've narrowed that list down considerably. There are very few Principal Clerks left and by the time the Election rolls around there will be a few less; that we're mindful of the date which they'll have their three years of prior registration and we'll hire them as Assistant Registrars, which is a small increase in pay but allows them to be flexible to meet our needs.

Almost all the appointments and job changes since Robinson has become Chairman were authorized by him. There are only two votes of the Commission since Robinson has been Chairman, which indicates that there was little Board action on any personnel appointments.¹ We asked each Commissioner why he had allowed Robinson such authority. Each explained that Robinson had been delegated, by the Commission, the responsibility for conducting initial interviews and for then bringing his recommendation to the Commissioners. Despite those assertions, there was no such vote delegating that authority to him. Instead, as was explained earlier, Murphy would send someone down to see Robinson and Robinson would authorize the person to be placed on the payroll. Again, this is the principal reason why personnel costs have exceeded budgetary allowances.

There is also a problem in changing the status of employees. As was mentioned earlier, the most common change is from Principal Clerk Stenographer to Assistant Registrar. Other changes vary but as former Commissioner McDermott said, there really are no systematized personnel policies. In most cases, there is little evidence that pay increases or additional jobs are necessary. Recently, Robinson created the job of Coordinator and appointed Vincent Cawley to the position at almost \$16,000 annually.² The following is an excerpt from Robinson's testimony concerning the position:

Question: Why was this position even established?

Robinson: Because there's a need for it.

Question: What's the need?

Robinson: Because we're constantly trying to find places to get into to locate and before we can even locate we got to have somebody that knows about the structure of a building to find out whether the building can stand the weight of those damn machines. We put a minimum of four machines - they weigh 8-1200 pounds apiece. And we put 4, and sometimes 5 and 6 machines on the

¹Since the Finance Commission has become interested in personnel matters in the Election Department, the Commission has been voting on such matters at its meetings.

²Cawley had been an Assistant Registrar of Voters and received an increase in pay of \$6,000.

floor. First of all, we got to be able to be sure that the floor that the thing is going to be rolled over on can stand - can take the weight of a machine because if you roll them in and this happened in here before, you roll the machines on and then you damage the floor you end up paying for the floor. And if you get 3 or 4 machines someplace and they can't stand the weight of those machines and the damn thing goes down in the cellar, the city is going to have a suit on their hands. That's why we haven't got anybody in this organization until this guy came aboard that knows anything about stress, and building machines. This guy, did you look at his background?

Question: Why did you recommend he go to the top of the grade?

Robinson: The money is not that good to begin with, the bottom of the grade. I think he was making more at whatever he was doing, than at the bottom of the grade. You can't expect a man to take on additional responsibilities and take a pay cut. So I put him at, to make it worth his while. He didn't have to take this job. I asked him to take it.

Question: So this was your decision, not a Board decision?

Robinson: Absolutely

Question: [In his resume] there's no structural engineering background or any of that type of thing?

Robinson: Well, he knows more about it than anybody in this department. He knows more about it than I do.

It is interesting to note that this position never existed before. According to former Commissioner McDermott, this is primarily because most locations are in basements or bottom floors. On those occasions where this was a concern of the Voting Machine Custodians, they would work out a solution based on their experience. Mr. Cawley has no relevant experience to make decisions on the potential stress voting machines may create and it is rather apparent that this appointment was not based on either necessity or merit.

Another method of increasing salaries used by Robinson is "9F letters". This is a provision of the compensation plan that allows exemplary employees to be moved up in their grade. We discussed several of them with Robinson because of the inconsistency of application. John F. Donovan became a permanent employee of the Department in January of 1969 and worked his way up to Head Assistant Registrar of Voters. (He was appointed to that position on June 8, 1977.) Donovan is thoroughly experienced and is one of the most valuable employees in the Department. On June 8, 1979, Robinson requested that under the 9F Rule of the Compensation Plan, Mr. Donovan be placed at the top of the pay grade. Robinson wrote that this was a Board request, although it was solely his decision. Based on Donovan's job performance, it was justified, but Robinson made the same request for other employees under different circumstances.

Question: There are some other 9F letters. The one prior to Mr. Cawley was to Mary L. Markey.¹ And she became a permanent employee it says on January 14th, 1976. You say, 'this Board respectively requests under the 9F Rule because of her prior experience and qualifications that Miss Markey be placed in column 7. We looked at the minutes and there's no Board action on this, so was this your decision?

Robinson: If there was nothing on the Board, it must have been my decision, yes.

Question: How do you make a decision on promoting?

Robinson: I won't promote somebody just because they happen to be a senior person - temporary position. I promote the person that I consider most qualified. I got some morons around here that are senior and I'm not going to promote them. I'd resign before I'd do that.

¹A check with her former employer, the Police Department, determined that she had not been a model employee.

Question: It says here that because of her prior experience, and qualifications, you're asking that she be placed in column 7.

Robinson: Because she's qualified, eminently qualified. She can do everything out there and will do most of the things a lot of the others won't do. She's very cooperative. She's entitled to it. I can't give her a permanent job. The best thing I would do is give her a few more dollars.

Question: Do you do any job performance evaluations or anything like that for yourself or do other employees? Would her supervisor, say, do one?

Robinson: I think maybe it just started. Somewhere in the record there, you got a job performance form that we're supposed to do but, I haven't done it for years. I think that was one of my responsibilities when I first came here.

Question: And Joseph Gauthier.

Robinson: Good man.

Question: Now, he began as a permanent employee in May of '75 and then in August of '77 he was temporarily promoted to Senior Assistant Registrar. He now holds grade 4 and you're asking that he go to the last step, column 7. And again it says, 'this Board' but once again, there's no mention of any of this action in the minutes. So was this your vote? Was this your decision?

Robinson: Yes, sir.

Question: Okay, the next one is - let's see.

Robinson: Wilma Gallo.

Question: Yes. She was provisionally appointed on April 11, 1979 as an Assistant Registrar of Voters in this Department. Prior to that, she was in Real Property Department on the CETA program. So you said because of her prior experience and her outstanding qualifications for this position, it is requested that her one year, two year, three year, four year, five year, and six year increments be determined under Rule 9F of the City of Boston Compensation Plan effective April 11th. Could you just explain that one?

Robinson: The key word here is 'outstanding' qualifications and she has proven that since she's been here.

Question: What are her outstanding qualifications?

Robinson: She can do any sort of clerical work. She can type, do anything out there. She's very cooperative. She knows her way around City Hall. She's been around here, according to this, over nine years.

Question: She was appointed here provisionally on April 11th?

Robinson: Yes.

Question: And then eight days later you're asking to have her go to the top of the grade?

Robinson: Sure.

From the manner in which 9F letters are granted, it is obvious that merit had little to do with Robinson's decisions. Mr. Donovan was deserving of a promotion after his years of productive service. However, the other 9F letters, all awarded between March - June 1979, were to people not nearly as deserving. Consider that Ms. Gallo, on the job five working days, received a 9F letter prior to Mr. Donovan. There is little question that such decisions have a negative effect on employee morale.

Overtime has been a significant problem in the Department. The fiscal 1979 budget provided \$100,000 in the overtime account. The Department spent \$232,017. (See Exhibit 3 for a list of the amount of overtime received by Department employees). We asked Robinson why the overtime budget was overspent and he responded by saying it wasn't fully funded in the first place. However, even if the overtime budget was at the level requested by the Department, it would not have been sufficient. The request was \$177,000. \$100,000 was allowed, yet \$232,017 was expended. We asked Robinson about the amount of overtime and he testified:

Back a few years ago that overtime figure upset me. I think I was Chairman in 1976 and after the Election in '76, the state election, as soon as we completed the figures, somewhere in my records there will be a letter to that effect. I cut off all overtime, unless personally authorized by me. In February, 1977, a letter came down from Kevin White cutting off all overtime. I was there ahead of him, three months ahead of him. That's in the record. These figures, when Election comes up, I don't have any control over that overtime. These people are high salary people, they get overtime sometimes on Saturdays and so forth. I wouldn't know whether they're working or they're not working because they could be shuffling papers. I wouldn't know the difference. All I know is, I have to depend on those career supervisors that they are doing the job and that they're seeing that the people in there working for overtime are doing the job.

Perhaps Robinson was interested in curtailing overtime, but the records don't support any such effort. The fiscal 1977 overtime expenditure was \$144,217. In fiscal 1978, it increased to \$163,985 and in fiscal 1979 it reached \$232,016. We

would not dispute the need for overtime in the Election Department. However, there has been no analysis of the overtime and Robinson has no idea as to whether or not it is justified. It has been customary. Former Commissioner Greene described it as a necessary evil but admitted that no analysis of overtime had ever been done. Nobody could explain why, in fiscal 1979, when the number of personnel positions increased by 62%, overtime increased by 41%. We asked McElligott for his opinion on the most cost-effective manner of getting the work of the Department performed. He said that it was definitely more cost effective to use the experienced people on an overtime basis when needed than it was to hire more employees. His analysis is accurate. Robinson didn't bother to analyze the cost. He hired additional people and authorized overtime for those people as well as his permanent staff.

Compensatory time is another problem in the Department. Compensatory time is discretionary and may be granted when an employee works in excess of the regular work hours. It is granted on a straight time basis, subject to the approval of the department head. The Election Department exercises this option. In reviewing personnel records, we noticed that two employees had accrued twenty-one and twenty days comp time in a one-month period. We asked Robinson why he authorized twenty-one days comp time for McElligott in the month of February and twenty days for Mary Lou Markey in the month of March. Robinson did not know why, admitted it seemed excessive, and speculated it must have been on listing board work and comp time was used because the overtime account was overspent. McElligott testified that the time was spent in the months of January to April and that it was just not properly recorded. He explained that he took comp time because the overtime account for the listing board was overspent. There are several inconsistencies in the above explanation. First, the overtime account for the listing board was not overspent. As a matter of fact, that account ended the year with a \$5,000 surplus. Second, comp days are recorded monthly and would not have been recorded at the beginning of March had they been earned in March and April. There is a city policy on compensatory time. It reads as follows:

Work in excess of the regular work hours set forth in Section One of these rules may be compensated by granting compensatory time on an 'hour for hour' or straight time basis subject to the approval of the Department Head. Compensatory time shall be performed only with the written authorization of the Division or Department Head except in emergencies. In such emergencies, notice shall be given to the Supervisor / Division Head before or within the first hour in excess of the regular day/week worked. Immediately upon completion of the work, the Supervisor shall submit a time report to the Division / Department Head for approval

Compensatory time shall be maintained separately from the time and attendance records. The compensatory time shall be adjusted on a monthly basis by the authorized payroll / personnel representative.

This policy was not adhered to by Robinson in the case of McElligott and Markey as well as a number of other cases involving a lesser number of comp days.

The hiring practices of the Election Department are based solely on patronage and that policy has been costly to the City. It is apparent that Robinson, who as a holdover, feels that he cannot say "no" when he is told to put someone on the payroll. The budget office and the auditor have been negligent in not prohibiting budgetary excesses. Priorities are directed more at satisfying patronage demands than reasonable financial management.

When the Finance Commission undertook this investigation, our primary concern was to determine whether or not the election process was administered in such a way as to ensure the integrity of elections. In preparing for each election, the Commission has a number of responsibilities to fulfill. These include: registering new voters, verifying nomination signatures, establishing supplemental voting lists, ensuring that the voting machines are properly placed and in good working order, preparing and printing of ballots, conducting the actual election and then counting and certifying the results.

During the course of our review, we could find no evidence that elections have not been conducted in accordance with proper procedure. We found no evidence of abuse. Despite the myriad of personnel difficulties the Department has encountered,

it is able to conduct an effective election with the assistance of many wardens, clerks, as well as some 150 city employees assigned to the Election Department to help out on Election Day.

There are several potential areas for abuse in the voting process. We reiterate that we found no evidence of voting irregularities but the potential for abuse should be eliminated. The areas of concern are:

- 1) A laxity in the authorization of people to vote who do not appear on the voting lists,
- 2) The existence of the names of deceased persons on the voting list,
- 3) Persons whose names appear on more than one voting list, and
- 4) Changes in polling locations.

There are occasions (796 in the November Election of 1978) where a person is authorized to vote even though his name does not appear on the voting list at his precinct. The reasons are legitimate and range from a simple clerical error, to a newly registered voter, to someone whose name may have been omitted when lists were being updated. For whatever the reason, the Election Department is prepared to accomodate those people on Election Day. If an individual claims to be a registered voter but his name is not on the voting list, the warden will contact the Election Office at City Hall to determine whether or not the voter is indeed registered. If the voter is identified as being registered, then he is allowed to vote. A voting slip is given to the voter and includes the following information: name, address, date of birth and occupation of voter; authorizing person from city hall, signature of the warden and signature of the voter.

The important items on that slip are the identity of the individual at City Hall who verified that the voter was registered and the signature of the warden who authorized the voting. However, there are quite a number of slips where one or both of those names do not appear. This procedure involves a relatively small number of voters but should be clearly documented to prevent even the appearance of a question.

Massachusetts General Laws, Chapter 51, section 14 requires the official responsible for recording deaths in a city or town to transmit to the registrars of voters on the first of each month and two days prior to every election the names of every resident, eighteen years of age or older, who died during the preceding month. In Boston, this obligation belongs to the Board of Registration. When the names are received, the Election Commission reviews them and deletes from the voting list all those who were registered voters.

The Finance Commission reviewed the lists of deaths transmitted to the Election Commission prior to the November election last year. We found that the voting list had not been purged of names of deceased voters since early in August of 1978. There were approximately 600 names that should have been removed. We reviewed those names to determine if any of them were checked as having voted and found none. However, such a possibility exists and the procedure developed to prevent such an abuse should be followed closely.

A third situation involves people who are registered to vote at two addresses. When a registered voter moves from his residence, he may apply to the Election Department to be registered to vote from his new address. When this situation occurs, the voter is removed from the voting list at his previous address. However, as lists are updated in preparation of the final voting list, voters who have moved must be deleted from their original precinct list manually instead of by the computer. The Finance Commission reviewed the November 1978 voting list and found 250 people who appeared on two lists. We determined that none of these people voted twice but it would certainly be easy to do so and it undoubtedly would go undetected.

In each of the past three years there have been allegations that polling places have been changed for political purposes. The charges have involved moving polling locations that would be politically beneficial to the Mayor.

There are 252 polling locations in the City of Boston and that specific number has existed for eight years. Ideally, each precinct represents the same number of registered voters, is centrally located within the precinct and provides safe access for voters. Obviously, the reality of the situation is quite different. Each year there is the necessity of changing locations with the most prevalent reason for change being that the Election Commission is asked to leave a location. Changes have been made for demographic reasons. The Commission also has its own reason for change, i.e., moving to a location where machines can be stored on a year round basis or vacating a location which requires excessive transportation and/or rigging costs in placing machines. In addition, in recent years there have been increased demands for greater accessibility for handicapped voters.

When a change is considered, there is only one statutory provision that need be met prior to that change. Chapter 264 of the Acts of 1955 provides:

No division of the City of Boston into voting precincts and no change of polling places in said city shall be made until reasonable notice of the proposed change has been given by the Board of Election Commissioners to the state senator and the state representative from the district.

Once that requirement is met then only a vote of the commission is required in order to implement a change. M.G.L. ch. 54, s. 24 provides that after a change has been authorized notices shall be posted in public places in the affected precinct describing the change and a notice shall be mailed to each registered voter.

There is certainly little doubt that efforts have been made to have polling places changed for political purposes. With the Election Commission appointed by the Mayor and the members often kept in a holdover status any such efforts have a better chance at success. However, if there were adequate administrative provisions established by the Election Commission or more thorough statutory provisions abuses would be unlikely to occur and the public would be more adequately apprised of proposed changes.

Currently, the Election Commission will consider any request for a change in a polling location, regardless of the source or number of petitioners making such a request. It then makes an in-house decision and if that decision is to change a location, then the Senator and Representatives are notified. There is no public notice until after a change is made. It would be a sound administrative decision for the Election Commission to institute a policy providing for a public hearing within the affected precinct, in advance of changing polling locations. Although this would not prevent abuses from occurring it would provide advance notice and public scrutiny. By providing a forum by which the public could participate, the Election Commission would certainly eliminate many of the questions that have arisen concerning the rationale for changing polling locations.

One other problem at many locations involves the basic access of the voter. Often times the supporters of candidates in attempting some form of last minute campaigning, prevent clear and unimpeded access to a polling place. The provisions of M.G.L. Ch. 54, s. 71, which authorizes wardens to maintain unobstructed access, must be enforced. Many voters find it offensive to be barraged with last minute pamphletting and every effort should be made to keep any such efforts with reason.

CONCLUSIONS

1. Despite administrative, personnel and some technical difficulties we found that the integrity of Elections in the City of Boston is sound. We could find no clear evidence of abuse. With the tightening up of some established policies, and the initiation of some new policies the potential for abuse would be further reduced.

2. Personnel policies within the Election Department are seriously deficient. There is excessive patronage and no attempt to follow generally accepted personnel practices.

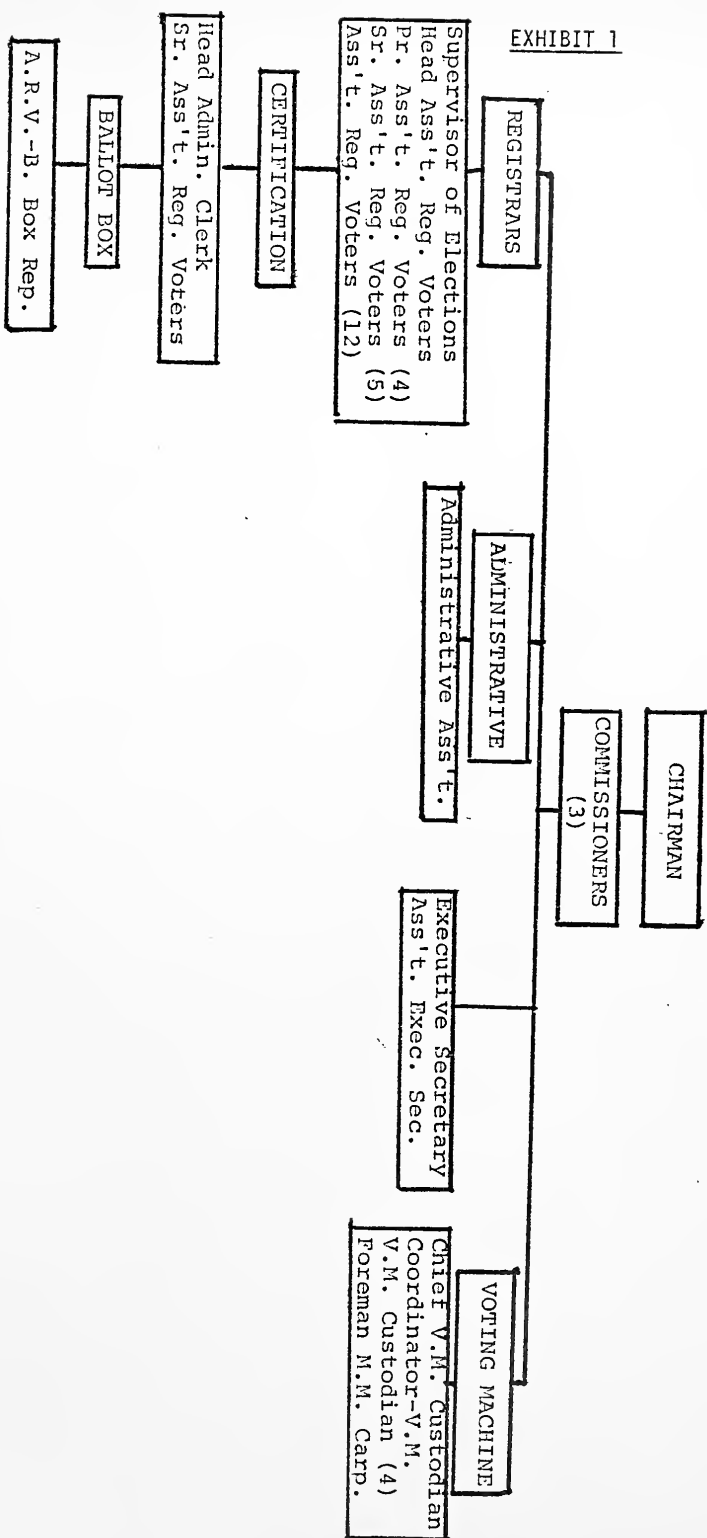
3. The Election Commission has not effectively administered its affairs. Over-expending the budget is simply accepted with no effort being made toward implementing necessary financial controls.

RECOMMENDATIONS

1. All employees of the Election Department in excess of the personnel quota should be terminated.
2. Personnel policies of the Election Department should immediately be brought in line with those which have been officially authorized by the City.
3. The supervisor of Budgets and City Auditor should ensure that expenditures in excess of appropriations in the Election Department do not occur.
4. The Election Commission does not need full time members. One member should be full time with the other three members only part time and paid on a per diem basis.
5. The City Ordinances should be amended to preclude holdovers from serving on the Election Commission. If the Mayor fails to either replace or reappoint a member no later than thirty days after the expiration of the members term of office, then the City Council should appoint a member for a full term. Until a member is elected by the Council the then City Clerk shall attend, and have voting rights at Election Commission meetings.
6. The Mayor should replace Robinson as Chairman of the Election Commission.
7. Administrative policies, adopted to prevent voting abuses, should be implemented.
8. The Election Commission should conduct a public hearing in advance of any decision to change a polling location.

ELECTION DEPARTMENT

EXHIBIT 1



Boston

Office of the Supervisor of Budgets
703 City Hall
Boston, Massachusetts 02201

May 31, 1979

Mr. Michael Joyce
Election Commissioner
Election Department
City Hall
Boston, MA 02201

CITY OF BOSTON
ELECTION DEPT.
MAY 31 11 02 AM '79

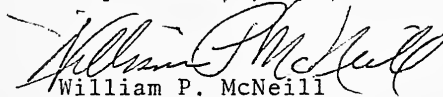
Dear Sir:

This is to advise you that your FY 1980 budget does not contain provisions for any temporary or permanent principal clerks and stenographers.

Your present payroll indicates that you have persons employed under this title. Your present payroll also indicates that you are over your allowed quota of personnel; therefore, you are being requested by this office to terminate the temporary people you have filling these positions as soon as it is reasonably possible.

I will suggest that you immediately contact Mr. Richard Meyers, Supervisor of Labor Relations regarding this matter for his advise on actions that you must take.

Respectfully yours,


William P. McNeill
Supervisor of Budgets



Kevin H. White, Mayor/Administrative Services Department/City Hall Plaza

OVERTIME FOR FISCAL 1979

<u>NAME</u>	<u>SALARY</u>	<u>OVERTIME</u>	<u>NAME</u>	<u>SALARY</u>	<u>OVERTIME</u>
Mary A. Barry	16,300	6,027.78	Mildred Klarfeld	10,028	3,175.05
William L. Barry	21,800	7,538.50	Karol Kostka	19,900	910.80
Edward T. Barter	12,505	20.54	Margaret F. Kovar	14,420	6,279.42
Mark F. Battaglia	8,981	406.04	Rose Madden	13,107	5,336.79
David Bernner	13,107	5,688.57	Lucille A. Markey	12,505	2,533.64
Grace Bevilacqua	13,107	4,440.03	Mary L. Markey	11,424	2,633.35
Deloris Butler	8,981	44.88	Michele Mattarese	9,644	1,319.08
Patricia A. Byron	8,981	142.56	John J. McElligott	21,800	10,599.85
Donald Caulfield	11,424	1,471.37	Ralph Mercogliano	13,107	5,213.32
Vincent H. Cawley	10,028	3,712.81	Edward Mullen	9,644	1,341.92
Carolyn Cloran	9,644	2,454.57	Joseph Musto	15,895	7,055.87
Martin Clougherty	13,107	5,700.37	Florence O'Donnell	8,981	636.73
John F. Donovan	17,200	9,364.72	Christopher Quick	9,644	1,051.14
Maurice Doyle	13,630	5,119.08	Veronica Quick	9,644	977.22
Joseph R. Gauthier	13,107	3,786.84	Albert Rinaldi	8,981	243.24
Helene M. Ginsburg	9,644	228.36	Frank Rinaldi	10,028	3,893.25
G.P. Glazer	9,644	559.68	Joseph Sablone	13,107	5,876.72
John F. Grogan	12,505	5,061.97	Charles Scordino	13,107	512.92
Brenard H. Haefner	11,928	5,368.41	Thomas F. Shea	11,424	5,101.21
Joseph M. Hanlon	9,644	2,115.14	Isadone A. Simon	9,644	1,445.39
Eugene Hillis	12,505	389.26	John F. Slattey	13,107	5,026.90
Mary M. Hyde	13,107	185.44	Margaret M. Strano	9,644	2,637.33
Debra A. Jones	9,644	1,335.82	Gil B. Suarez	11,424	4,908.13
Regina M. Jordan	10,028	2,624.03	John M. Tucker	10,028	1,084.03
Anna L. Kazer	13,107	5,453.65	Estrella J. White	14,420	5,364.95
Paul R. Kennedy	14,420	5,151.66			





